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## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

CHARLES SEWARD, Individually,	)
and on Behalf of All Others	
Similarly Situated,	Ì
Plaintiff,	) )
•	) Case No. 08 CIV 3976
v.	) KMK/MDF
INTERNATIONAL BUSINESS	) )
MACHINES, CORP. d/b/a IBM	) ECF CASE
CORP.,	)
	) ORAL ARGUMENT REQUESTED
Defendant.	

## PLAINTIFFS' MOTION TO PROCEED AS A COLLECTIVE ACTION AND TO FACILITATE NOTICE UNDER 29 U.S.C. §216(b)

Plaintiff CHARLES SEWARD on behalf of himself and all other similarly situated employees who worked for INTERNATIONAL BUSINESS MACHINES, CORP. D/B/A IBM CORP., ("Defendant"), by and through their counsel of record, move this Honorable Court for an order:

- 1. Conditionally certifying this case as a Section 216(b) collective action;
- 2. requiring Defendant to produce a computer-readable data file containing the names, addresses and telephone numbers of such potential opt-in members so that notice may be issued; and
- 3. authorizing notice by posting on IBM's intranet and via U.S. first class mail to all similarly situated persons employed by Defendant as call center employees or other similarly titled positions from April 28, 2005 to the present to inform them of their right to opt-in to this lawsuit.

This motion is based on the Memorandum of Law, opt-in consent forms, declarations, pleadings, Defendant's documents and other exhibits in support thereof, as well as other supplemental documents or testimony which may be presented at the time of hearing. Plaintiffs request oral argument.

Dated: December 1, 2008

submitted. Respectfull\*

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